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# STATUTORY EXCEPTIONS TO THE COMPETITIVE SERVICE

A REPORT  
TO THE  
COMMITTEE ON  
POST OFFICE AND CIVIL SERVICE  
OF THE  
UNITED STATES SENATE  
BY THE  
U.S. CIVIL SERVICE COMMISSION  
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## CENTRAL INTELLIGENCE AGENCY

I. Identification of and basis for the exception. (Section based on information submitted by agency and supplemented by research of Civil Service Commission staff.)

A. Statutory citation.

Section 10(a) of the Central Intelligence Act of 1949, as amended (63 Stat: 212, 50 U.S.C. 403j).

B. Coverage.

All positions and all personnel of CIA are excepted, but the positions of Director and Deputy Director are to be filled by Presidential appointment with the advice and consent of the Senate.

C. Position coverage.

The number of CIA positions is classified. Positions "include analysts of various kinds, scientists of various disciplines, medical doctors, secretaries, computer and data control positions, security personnel, communications personnel, positions requiring paramilitary training, positions requiring intelligence-gathering training and skills, lawyers, clerical positions of various kinds, training personnel, budget and finance officers, etc."

D. Historical basis for the exception.

A predecessor of the CIA, the Central Intelligence Group, was formed by a Presidential directive of January 22, 1946. The National Security Act of July 1947, which unified the armed forces, also transferred the functions of the Director of the Central Intelligence Group to the Director of the Central Intelligence Agency. The functions, authority, and responsibilities of the CIA were covered by organic legislation for the Agency, in the CIA Act of 1949. CIA functions and activities were felt to require secrecy and security measures. Statutory exceptions from civil service laws are contained in section 10(a) of the amended act: "Notwithstanding any other provisions of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out its functions including - (1) personal services, including personal services without regard to limitations on types of persons to be employed...."

II. Current agency personnel policy, practices, and procedures for the excepted positions.

A. Recruitment and selection.

1. Use of announcements or other publicity.

External announcements of job opportunities include: advertising in newspapers, professional and technical journals, the College Placement Annual, job listings in professional societies, placement publications, recruitment literature in Federal Job Information Centers and the Armed Forces outplacement centers in military bases, and job announcements sent to academic departments, student advisors and placement officers. Internally, job opportunities are publicized through a vacancy notice system and through vocational counseling activities. The Agency tries to fill vacancies by internal reassignment if possible.

2. Positive recruiting methods.

Full-time recruiters for both professional and clerical/technical positions are in 15 cities throughout the U.S. Recruiting methods also include: contact with placement officers in colleges and universities and with faculty members in "disciplines of interest", contact with military installations, attendance at professional society meetings, use of Federal and State employment services, attendance at "career days" and "job fairs" at all levels from high school up, and active recruitment of minority groups. "Once the candidate has been identified, recruitment begins with an interview."

3. Job evaluation system and qualification standards.

The CIA's job evaluation system is based on that established under the classification provisions of title 5, U.S.C. The basic occupational coding system of the Civil Service Commission for Federal positions has been adapted for CIA positions. Position grades, grade definitions, the pay schedule, the step-rate system, and premium pay rates are used as well as other benefits applicable to General Schedule employees. CSC position standards are used in classification of CIA jobs as far as applicable. Agency position standards are used for jobs not covered, including super-grade jobs, intelligence and operations positions, and other positions. Where standards are not available, job

comparison is a usual method of classification. Qualification standards of the CSC are followed. The CIA system provides for a periodic classification review at least every three years. The CSC excepted the CIA from the Commission's classification system in 1949, and it was excepted by statute later that year.

4. Examining methods and techniques.

a. Written tests and other ranking devices. A Professional Applicant Test Battery is used to assess the qualities of professional applicants. Background evaluation is based on a review of transcripts, certificates, honors achieved, and other related evidence. Proficiency tests are used to verify claimed and measurable skills in foreign languages, shorthand, typing, etc. A general aptitude test is used for clerical applicants. Specialized aptitude tests are used for technical fields of work, such as computer operations, communications, photo interpretation, etc. Tests, except for basic skills tests, have no absolute value and are not used in ranking applicants. Final decisions rest on multiple appraisals of all evidence.

b. Registers or other employment lists. Though no formal registers are maintained, "significant qualifications data" are saved in a "computerized Qualifications Inventory." Applicant file summaries are kept.

5. Selection and appointment practices.

a. Veteran preference. The CIA, though exempt by law from automatic application of veteran preference, in practice gives preference to the veteran whenever possible. "...in instances of approximately equal qualifications, the veteran will be considered over the non-veteran."

b. EEO. Special recruitment efforts are made to hire minority applicants. Special attention is paid to minority applications and "component performance in minority employment." "Components which appear to be lagging become the object of follow-up action by the Agency Equal Employment Opportunity Officer."

B. Promotion policies.

"For many years the Agency has operated under a policy of competitive selection for promotion." An employee's

performance, qualifications, length of service, and value to the Agency are competitively evaluated. Those employees who have been downgraded without personal cause are given competitive consideration for promotion to their former grades. Each Career Service is a competitive area for promotion for the employees in that Service. Separate areas of competition may be established in that Service if necessary because of differences in occupation or function. Promotions are limited to one-grade advancements, except by specific recommendations of the Director of Personnel. Competitive promotion evaluation of personnel in grades GS-09 through GS-14 is done at least annually. Employees in GS-08 and below are evaluated for promotion when the heads of Career Services consider it appropriate. Competitive evaluation is not required for these grades, but the principle of competitive evaluation is followed in selection for promotion.

C. Removal.

1. Separations of surplus personnel are handled under the authority of the National Security Act of 1947 as amended. The surplus employee is notified in writing of his proposed separation and his right to submit within ten days a request for an opportunity to present orally or in writing his reasons for not being declared surplus. The Director of Personnel may, after review, ask the head of the employee's office to reconsider the declaration. Attempts will be made to place the surplus employee elsewhere in the Agency. If these attempts fail, the Director of Personnel recommends to the CIA's Director that the employee be declared surplus. At the same time the Director of Personnel informs the employee in writing of this action and of the employee's right to present information to the CIA Director within ten days. When he is informed of an employee's being declared surplus, the Director may refer the action to the Inspector General, terminate the employee, or disapprove of the recommendation of the Director of Personnel. Whether the employee is removed or not, he is notified in writing by the Director of Personnel.
2. Involuntary separations may result from varying reasons, including inefficiency, failure to meet Agency security or medical standards, misconduct, etc. During the trial period, an employee may be separated after a review by the Director of Personnel. After completion of the trial period, the employee, upon notice of separation, will have the opportunity to answer orally or in writing within ten days. Under statutory authority, the Director may separate an employee immediately, with or without appeal rights, when necessary in the interests of the United States.

D. Agency comment on its use of merit principles.

CIA quotes from a letter from the Chairman of the Civil Service Commission to the Director of the Office of Management and Budget: "The Commission, recognizing the necessary qualifications and caliber of persons holding career-type appointments in the CIA, considers the non-competitive entry of such persons into the competitive service as compatible with merit system principles. The on-site observations of a Commission team assure us that the operations of the CIA personnel system are consistent with merit principles." This letter was written on December 3, 1971.

E. Additional information submitted: Personnel operating policies for attorney positions.

The Agency seeks to recruit some of its lawyers internally, because the intelligence function is an Agency specialty. They also recruit lawyers with or without legal experience who are well qualified on the basis of their law school records, professional backgrounds, and personal qualities. In establishing grades for hiring and promoting, the Agency seeks to be competitive with government practice generally. Cover and security considerations may require special recruiting and assignment. The Agency recommends continued exception.

III. Agency analysis of need for continuing the exception.

A. Comparison of present and original conditions.

The Agency feels that employment conditions and staff problems are essentially the same as they were at the time of statutory exception. The Agency functions and activities still largely bear on national defense. Recruitment, establishment of positions, their number and type, acknowledgement of certain people as CIA employees, and other personnel policies are still classified.

B. Agency reasons for continuing the exception.

The Agency says that it is essential that its statutory exception be continued because of the continuing need for secrecy. The Director's broad authority to terminate employees does not require changes from which administrative appeals may result. Under the CIA Retirement Act of 1964, termination decisions by the Director are not subject to appeal. Also, recruitment of employees from Commission registers would identify those individuals as CIA employees. Having the Commission establish or approve CIA positions would sometimes indicate areas of CIA activity where they should not be disclosed. Since all employees, not only those recruited for intelligence gathering, are subject to reassignment abroad, their number and positions are not to be revealed.

C. Agency recommendation.

The Agency recommends continued exception.

U.S. Civil Service Commission  
Opinion on Continued Statutory Exception from the  
Competitive Service of the Central Intelligence Agency

Although the organic legislation establishing the Central Intelligence Agency did not provide a specific exception from the competitive service for CIA employees, the Civil Service Commission placed them in Schedule A. In 1949, the CIA was excepted by statute which provided that appropriated or nonappropriated funds might be spent to obtain "personal services without regard to limitations on types of persons to be employed..." The CIA is also exempt from reporting and publishing requirements, and the Director may terminate any employee immediately if he deems it necessary.

The CIA has its own employment system, which appears with respect to the operations visible to us to be a working merit system. It provides for written examinations, a competitive promotion plan, and procedures for removal designed to protect the employee.

Because of the covert nature of some CIA positions, these positions cannot be subject to the laws and regulations governing appointment and removal in the competitive service. Moreover, the agency states that it is necessary to have some mobility between the "undercover" positions and those which are openly acknowledged. Although the civil service laws and regulations could be applied to those positions for which the CIA accepts applications on an open basis, the Commission is of the opinion that a single, excepted personnel system for CIA best meets the needs of the agency.

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